

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN MATEO FOSTER CITY SCHOOL  
DISTRICT.

OAH Case No. 2015100293

ORDER DENYING MOTION TO  
AMEND COMPLAINT, WITHOUT  
PREJUDICE

On October 1, 2015, Parent on behalf of Student filed a Due Process Hearing Request (complaint), naming San Mateo Foster City School District. On October 28, 2015, Student filed a Request to Amend the Due Process Hearing Request. No opposition was received.

As discussed below, the Request to Amend is denied without prejudice, due solely to the format of the amendment. Parent is encouraged to re-submit the Request to Amend along with an Amended Complaint in the proper format, in accordance with the instructions stated below.

APPLICABLE LAW

An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or (b) the hearing officer grants permission, provided the hearing officer may grant such permission at any time more than five (5) days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i).) The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

DISCUSSION

The motion to amend is timely. However, the amended complaint is not in the proper format. The amended complaint must be a complete, self-contained document that contains all the issues and claims Student is presenting, in a single Amended Complaint document. Here the amendment cannot be granted because Parent did not file a complete, new amended document containing all claims. Rather, Parent submitted a document that referred back to the original complaint, amending certain portions and not others, and requiring comparison of the original complaint with the amendment to determine which claims and issues were and were not being altered. Therefore, the motion to amend is denied.

The denial is without prejudice, and Parent is encouraged to re-submit a self-contained amended complaint document that presents in a single place, all the issues and claims Parent wishes the Office of Administrative Hearings to consider.

A parent who is not represented by an attorney may request that OAH provide a mediator to assist the parent in identifying the issues and proposed resolutions that must be included in a complaint.<sup>1</sup> Parents are encouraged to contact OAH for assistance if they intend to amend their due process hearing request.

### ORDER

1. The request to amend is denied without prejudice.
2. Parent shall be permitted to re-file a new amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).<sup>2</sup> The amended complaint shall comply with the requirements of title 20 United States Code section 1415(b)(7)(A)(ii).
3. If Parent fails to file a timely new amended complaint, the matter will proceed as to the issues stated in the original complaint.

DATE: November 4, 2015

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/s/  
JUNE R. LEHRMAN  
Presiding Administrative Law Judge  
Office of Administrative Hearings

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<sup>1</sup> Ed. Code, § 56505.

<sup>2</sup> The filing of an amended complaint will restart the applicable timelines for a due process hearing.